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**WRITTEN TESTIMONY OF ATTORNEY BARRY D. HOROWITZ BEFORE THE
JUDICIARY COMMITTEE OF THE GENERAL ASSEMBLY IN OPPOSITION TO THE
ADOPTION AN ACT CONCERNING THE APPOINTMENT OF SUCCESSOR TRUSTEES,
HOUSE BILL NO. 7030**

Dear Honorable Committee Members:

My name is Attorney Barry Horowitz. I am a member of the Connecticut Bar Association Estate Planning and Probate Section, the Elder Law Section, and the Ethics Committee. I am also a founding member of the Hartford law firm of Nirenstein, Horowitz & Associates, a law firm that does exclusively estate planning law. I am before you today to express my concerns regarding the House Bill No 7030 An Act Concerning The Appointment Of Successor Trustees (hereinafter referred to as the "Act").

The Act attempts to improve probate court procedures involving the appointment of successor trustees, but in so doing it interferes with the rights of Settlor or Grantors to address these issues themselves.

Issues that I believe will be of concern to Connecticut residents are as follows:

First, it is very common for a Grantor or Settlor to place in their trust provisions allowing a child, spouse or beneficiary to appoint a trustee or successor trustee after the Grantor or Settlor dies if the position becomes vacate. The Act, upon petition of a trustee, would allow a probate to do it instead, thereby interfering with the provisions the Grantor or Settlor made. The Act also does not have any standards or considerations as to when the court should ignore provisions made by the Grantor or Settlor, thereby leaving it entirely to court's discretion. Section 1(a)(1),(b)

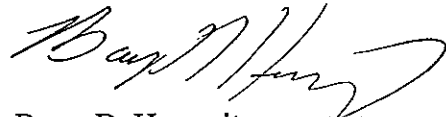
Secondly, and of more concern, with regard to a subtrust (a trust within a trust), after the Grantor or Settlor dies and upon petition of a trustee, the Act would allow a probate court to appoint a new trustee even when the position is not vacant and the person the Grantor or Settlor chose is still serving, thereby undoing the decision that the Grantor or Settlor made, without giving the probate court any standards or issues the court should consider when making such a removal,

thereby leaving it entirely to the courts discretion. Section 1(a)(2),(b)

Finally, these provisions apply to inter vivos trusts, trusts that are designed to function, and generally do function, outside the probate court's jurisdiction. Clients choose these trusts, in large part, because they desire that their affairs be handled outside of the probate court. The Act interferes with this choice, expanding probate court jurisdiction to these trusts when they already have provisions addressing these issues, without any guidance or standards..

For all these reasons House Bill No.7030 entitled An Act Concerning The Appointment Of Successor Trustees should not be allowed to leave the Judiciary Committee until it has been reworked to address these issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry D. Horowitz", written in a cursive style.

Barry D. Horowitz, JD LLM